

Original sponsor: Haggland

Offered: 3/10/67  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 142

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to medical malpractice actions."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 09.55 is amended by adding new sections to read:

9 ARTICLE 6. MALPRACTICE ACTIONS.

10 Sec. 09.55.530. DECLARATION OF PURPOSE. The legislature con-  
11 siders that there is a need in Alaska to codify the law with regard to  
12 medical liability in order to establish that the law in Alaska in this  
13 regard is the same as elsewhere.

14 Sec. 09.55.540. BURDEN OF PROOF. (a) In a malpractice action  
15 based on the negligence of a physician licensed under AS 08.64, or a  
16 dentist licensed under AS 08.36, the plaintiff shall have the burden  
17 of proving

18 (1) the degree of knowledge or skill possessed or the  
19 degree of care ordinarily exercised by physicians or dentists practic-  
20 ing the same specialty in similar communities to that in which the  
21 defendant practices;

22 (2) that the defendant either lacked this degree of  
23 knowledge or skill or failed to exercise this degree of care; and

24 (3) that as a proximate result of this lack of knowledge or  
25 skill or the failure to exercise this degree of care the plaintiff  
26 suffered injuries that would not otherwise have been incurred.

27 (b) In malpractice actions there shall be no presumption of  
28 negligence on the part of the defendant.

29 Sec. 09.55.550. JURY INSTRUCTIONS. In medical malpractice

1 actions the jury shall be instructed that the plaintiff has the burden  
2 of proving, by a preponderance of the evidence, the negligence of the  
3 physician. The jury shall be further instructed that injury alone does  
4 not raise a presumption of the physician's negligence.  
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